

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-33135-2023

Date of Decision:-18.07.2023

Joginder Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Hasrat Brar, Advocate for
Ms. Navneet Kaur Warraich, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.390 dated 21.07.2022 under Sections 406 and 420 IPC registered at Police Station Baldev Nagar, District Ambala.

2. The present FIR came to be registered at the instance of Bhagat Singh son of Jeet Singh. As per the allegations the complainant was the owner of truck bearing registration number HR-37C-8567. On 10.02.2021 he entered into an agreement with Joginder Singh. As per the said agreement Joginder Singh was to pay the instalments of the truck to Shree Ram Transport Company and the possession of the vehicle was delivered to the petitioner. It was also agreed that after the clearance of the loan, the truck would be transferred in the name of the petitioner. However, the petitioner did not deposit a single installment with Shree Ram Finance Company. The company started pressuring him (complainant) to deposit the

outstanding amount. Joginder Singh had misused the truck and a case of theft had been registered at P.S. Jaipur, Rajasthan. When he (complainant) approached Joginder Singh requested him either to deposit the installment or return the truck, Joginder Singh threatened him with dire consequences. Legal action was sought against Joginder Singh.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact the petitioner had been paying the installments to the finance company regularly. The petitioner had, with the consent and in the presence of the complainant handed over the truck to Amarjit Bajwa who had failed to pay the rent for the aforesaid truck to the petitioner. Thereafter the complainant and the petitioner had given a joint application dated 12.04.2022 against Amarjit Singh Bajwa to the police about the said truck. However, the said application had been consigned to the records. Yet another application had been preferred and it was found to be a case of civil dispute. A Civil Suit had also been filed by the petitioner against Amarjit Singh Bajwa regarding the vehicle and the complainant had been impleaded as a proforma defendant. He therefore contends that dispute between the parties was primarily civil in nature. As the petitioner was in custody since 06.03.2023 and none of the 11 prosecution witnesses had been examined so far, he was entitled to the concession of bail more so when he was first time offender and the case was triable by the court of Magistrate.

4. The Counsel for the State on the other hand contends that the petitioner had cheated the complainant of the truck in question. In fact he had handed over the truck to a third party to the detriment of the complainant who was the owner of the same. Therefore, the serious nature of the allegations did not entitle the petitioner to the grant of bail. He

however, concedes that the petitioner is a first time offender, in custody since 6.3.2023 and none of the 11 prosecution witnesses had been examined so far.

5. I have heard learned Counsel for the parties.

6. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant. ”

7. The veracity of the prosecution case against the petitioner shall be established during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 06.03.2023 and none of the 11 prosecution witnesses have been examined so far. Even otherwise, the case is triable by the court of Magistrate. The learned Counsel for the State has expressed no serious apprehension that the petitioner would tamper with the evidence, influence the witnesses or abscond from the Trial, if he is granted the concession of bail. Therefore, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Joginder Singh** son of Sh. Bant Singh is ordered to be released on bail subject to her furnishing bail bonds and

surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

10. In addition the petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No